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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,279	07/08/2003	Jeff Korn	12258-036001	8225

26161 7590 06/14/2005

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

EXAMINER

JUNG, WILLIAM C

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/615,279	Applicant(s) KORN, JEFF	
	Examiner William Jung	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-16 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 18, 2005 have been fully considered but they are not persuasive.

After careful consideration of the Applicant's argument, Examiner respectfully disagrees with the applicant's assertion. The applicant asserts that the Alfano et al do not disclose housing (on remarks page 5). Housing is defined as a case or enclosure (as for mechanical part or an instrument) or a casing (as enclosed bearing) in which a shaft revolves) (Merriam-Webster's Collegiate Dictionary). Although, Alfano et al do not explicitly disclose housing, figure 9 clearly shows that the fiber bundle is enclosed in a cylindrical tube where individual fibers are held in one place. Therefore, Alfano et al's illustration in figure 9 inherently includes housing. In addition, the applicant asserts further that Alfano et al do not disclose distal face having an eccentric port. Eccentric is defined as "a deviating from an established or usual pattern or style; deviating from conventional or accepted usage or conduct; deviating from a circular path; located elsewhere than at the geometrical center" (Merriam- Webster's Collegiate Dictionary). Alfano et al's fibers (side view) in figure 9 clearly anticipate the very definition of the eccentric pattern or structure of the fiber where the arrangement of the fibers are unique and bound to on particular size of shape and each individual fiber is a port to transmit and receive optical energy.

Furthermore, in regards to the Applicant's argument of catheter on remarks, page 6, Alfano et al discloses that the his imaging apparatus and method can be used as optical CT (computed tomography) where the imaging may be done in vivo or in vitro (col. 1, lines 17-45). Since Alfano et al's device includes elongated optical fibers (same shape as catheters of invasive

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probes) and the images are obtained in vivo, i.e. by invasively placing the imaging optical fibers in a patient, the above device inherently becomes an imaging catheter. Therefore, the previous rejection dated December 16, 2004 stands and repeated below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Alfano et al (US 6,208,866).

Claims 1, 2, 6-11, 15, and 16: Alfano et al disclose an apparatus and method where an optical coupler is comprising a housing with a distal face with a port, a central relay for guiding a rotating second beam from the port fixed to a point where the central relay is directing multiple beams with multiple element to configure beam incident to a fixed point (col. 4, line 50-col. 5, line 5; col. 7, lines 6-12). In addition, Alfano et al disclose that the guiding of the multiple beams with optical relay (col. 7, line 66 – col. 8, line 12). Moreover, the optical relay is coupled to rotating beam achieve the scanning plane (col. 8, lines 52-62).

Claims 3, 4, 12, and 13: Alfano et al disclose in figure 1 aperture disclosed to allow passage of the beam that intersect at beam splitter or prism to guide the beam direction.

Claims 5 and 14: Alfano et al also show in figure 1 mirror and lens to redirect the laser beam.

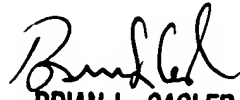
Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Jung, Ph.D. whose telephone number is 571-272-4739. The examiner can normally be reached on Mon-Fri 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WCI

June 12, 2005